

**REMARKS**

The Examiner again is requested to please note the change in docket number from THE 0243 PUS to "2002P00193US" in further correspondence.

The Examiner rejected Claims 1-6 under 35 U.S.C. §112 as indefinite for duplicate wording in Claim 1, line 4 and lack of antecedent basis in Claim 6, line 3. Claim 1 now has been amended to delete the duplicate wording and Claim 6 now has proper antecedent basis. The 35 U.S.C. §112 rejection now should be obviated.

The Examiner rejected Claims 1-6 under 35 U.S.C. §103 as being obvious over the combination of Sherman '754 in view of Le Monnier de Gouville '006. The Examiner stated:

"Sherman (US 2320754) shows and discloses (Figures 3, 5, 6, 7) a burner with a plurality of fingers (24) and having a peripheral wall with a second plurality ports (30) positioned along both sides of the peripheral wall of each one of the plurality of fingers;

- a cap having a plurality of overlapping fingers (32) corresponding in number to the plurality of fingers (24) and having recess forming a lip (31) extending laterally beyond the peripheral wall.

Sherman (US 2320754) shows and discloses the invention substantially set forth in the claims with possible exception to a plurality flame vents connecting adjacent ports along the peripheral wall.

Le Monnier de Gouville et al. (US 4891006) teaches, from the same stove top burner field of endeavor as Sherman providing scalloped shaped (see figure 1) plurality flame vents (5b) formed in a recess (4) and connecting adjacent ports (5a) along the peripheral wall of a burner for forming a pilot flame arrangement to aide in propagating a flame between burner ports during, for example, ignition.

In regard to claims 1-6, for the purpose of aiding propagation of flames between the ports of Sherman, it would have been obvious to a person having ordinary skill in the art to modify the recess lip of Sherman to include scalloped shaped plural flame vents and connecting adjacent ports along the peripheral wall of a burner, in view of the teaching of Le Monnier de Gouville et al. (US 4891006)."

Both Sherman '754 and Le Monnier de Gouville '006 show cylindrical port apertures or holes (30, 2). Further, Sherman '754 does not include the port holes (30) at the ends of each of the fingers (24), but instead has a large gap between the port holes (30) at the ends of each of the fingers (24) as shown in Figs. 5, 8 and 10. Although Le Monnier de Gouville '006 shows holes (2) substantially spaced around the entire round burner, there is no suggestion that this could be combined with the fingers (24) of Sherman '754. Also there is no suggestion that the round portholes (30, 2) can be anything other than the specific round portholes (30, 2) shown.

In contrast independent Claim 1, now has been amended to claim that the plurality of ports are formed continuously and substantially evenly spaced around each of the fingers and each of the ports formed as a slot in an upper portion of the peripheral wall. No suggestion of such structure is seen from either of the cited references Sherman '754 and Le Monnier de Gouville '006, either alone or combined. Claims 1-6 as now amended are in allowable form and clearly should be allowable over Sherman '754 and Le Monnier de Gouville '006.

The Examiner rejected Claims 7, 10 and 11 under 35 U.S.C. §103 as being obvious over the combination of Sherman '754 in view of Graves '230. The Examiner stated:

"Sherman (US 2320754) shows and discloses (Figures 3, 5, 6, 7) a burner with a plurality of fingers (24) and having a peripheral wall with a second plurality ports

(30) positioned along both sides of the peripheral wall of each one of the plurality of fingers.

- a cap having a plurality of overlapping fingers (32) corresponding in number to the plurality of fingers (24) and having recess forming a lip (31) extending laterally beyond the peripheral wall.

Sherman (US 2320754) shows and discloses the invention substantially as set forth in the claims with possible exception to an indexer carried by the collar and the stem limiting insertion of the stem to at least one predetermined alignment wherein the indexer aligns one upper member in the least one predetermined alignment with the base and the indexer including a plurality of splines on the collar and the stem interlocking with one another in at least one predetermined alignment.

Graves (US 1196230) shows a burner for a cooktop comprising:

- a base (13) for mounting the burner in a cooktop (1);
- at least one upper member defining at least part a plurality of ports on each side of a plurality of fingers;
- a collar (12) carried by the base and the collar including a plurality of splines (16a) around the periphery thereof;
- a stem (15) carried by the at least one upper member and the stem including a plurality of splines (17) around the periphery thereof; and
- an indexer (16, 16a, 17) carried by the collar and the stem limiting insertion of the stem to at least one predetermined alignment, the indexer aligning the at least one upper member in the at least one predetermined alignment with the base, the indexer including the plurality of splines on the collar and the stem interlocking with one another in the at least one predetermined alignment.

In regard to claims 7, 10 and 11, for the purpose of providing different positions relative to the top of the stove, it would have been obvious to a person having ordinary skill in the art to provide Sherman with an indexer carried by a collar and

a stem limiting insertion of the stem to at least one predetermined alignment with the base and the indexer including a plurality of splines on the collar and the stem interlocking with one another in at least one predetermined alignment, in view of the teaching of Graves. In regard to claim 10, Official Notice is taken that it is well known to provide burners with ignition elements aligned with one adjacent flame port to ensure ignition of a burner flame. Thus, in view of that which is well known in the art of burners, it would have been obvious to a person having ordinary skill in the art to provide Sherman with an ignition means aligned with one adjacent flame port.”

Sherman ‘754 shows cylindrical port apertures or holes (30), as above described. Further, Sherman ‘754 does not include the port holes (30) at the ends of each of the fingers (24), but instead has a large gap between the port holes (30) at the ends of each of the fingers (24) as shown in Figs. 5, 8 and 10. Graves ‘230 does not show ports at all. There is no suggestion that the round portholes (30) can be anything other than the specific round portholes (30) shown in Sherman ‘754.

In contrast independent Claim 7, now has been amended to claim that the plurality of ports are formed continuously and substantially evenly spaced around each of the fingers and each of the ports formed as a slot in an upper portion of the upper member. No suggestion of such structure is seen from either of the cited references Sherman ‘754 or Graves ‘230, either alone or combined. Claim 7 and Claims 10 and 11 dependent therefrom as now amended are in allowable form and clearly should be allowable over Sherman ‘754 and Graves ‘230.

The Examiner rejected Claim 12 under 35 U.S.C. §103 as being obvious over the combination of Huang ‘436 in view of Saleri ‘207 (although the Examiner also recites Graves ‘230 again in the middle of page 8 and the top of page 9 of the Office Action). The Examiner stated:

"Huang shows and discloses (figure 2) a including a body with a plurality of fingers, a burner head with a central (22) and peripheral wall (28), a base (50) including a first indexer (43) and a burner cap (40) including a plurality of spline shaped second indexers (36) for alignment of the cap with the burner head.

Huang however does not disclose an igniter mounted in the burner base (50).

Huang (US 6299436) shows and discloses the invention substantially as set forth in the claims with possible exception to 1) an indexer carried by the collar and the stem limiting insertion of the stem to at least one predetermined alignment wherein the indexer aligns one upper member in the at least one predetermined alignment with the base and the indexer including a plurality of splines on the collar and the stem interlocking with one another in at least one predetermined alignment, and 2) ignition element in a predetermined alignment with a burner head port (4) and mounting the element in a burner base.

Grave (US 1196230) shows a burner for a cooktop comprising:

- a base (13) for mounting the burner in a cooktop (1);
- at least one upper member defining at least part a plurality of ports on each side of a plurality of fingers;
- a collar (12) carried by the base and the collar including a plurality of splines (16a) around the periphery thereof;
- a stem (15) carried by the at least one upper member and the stem including a plurality of splines (17) around the periphery thereof; and
- an indexer (16, 16a, 17) carried by the collar and the stem limiting insertion of the stem to at least one predetermined alignment, the indexer aligning the at least one upper member in the at least one predetermined alignment with the base, the indexer including the plurality of splines on the collar and the stem interlocking with one another in the at least one predetermined alignment.

Saleri teaches, from the same cooktop burner field of endeavor as Huang, positioning an ignition element in a predetermined alignment with a burner head port (4) and mounting the element in a burner base (1).

In regard to claim 12, for the purpose of providing different positions relative to the top of the stove, it would have been obvious to a person having ordinary skill in the art to provide Huang with an indexer carried by a collar and a stem limiting insertion of the stem to at least one predetermined alignment wherein the indexer aligns one upper member in the at least one predetermined alignment with the base and the indexer including a plurality of splines on the collar and the stem interlocking with one another in at least one predetermined alignment, in view of the teaching of Graves. Also, for the purpose of providing suitable and reliable igniter for the burner, it would have been obvious to a person having ordinary skill in the art to modify the base (50) of Huang to include an ignition element mounted therein and aligned with a flame port, in view of the teaching of Saleri."

Huang '436 does show a similar burner, however the burner of Huang '436 includes ports 32 in the upper portion of the peripheral wall 28, but also includes a second plurality of ports 38 in the lower portion of the peripheral wall 28. There is no suggestion in Huang '436 or the other references cited to eliminate the second plurality of ports 38 in the lower portion of the peripheral wall 28. If the Examiner intended to recite Graves '230 as part of the 35 U.S.C. §103, the structure missing in Graves '230 has been recited in detail in the above rejections. Saleri '207 appears to only have been recited for the ignition element and is not otherwise relevant to Claim 12.

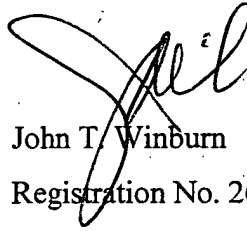
In contrast independent Claim 12, now has been amended (like Claims 1 and 7) to claim that the plurality of ports are formed continuously and substantially evenly spaced around each of the fingers and each of the ports formed as a slot only in an upper portion of the peripheral wall. No suggestion of such structure is seen from any of the cited references Huang '436, Saleri '207 or Graves '230, either alone or combined. Also, neither Huang '436 nor Saleri '207 disclose the claimed plurality of interlocking splines. Claim 12 as now amended is in allowable form and clearly should be allowable over Huang '436, Saleri '207 and Graves '230.

This amendment leaves Claims 1-7 and 10-12 remaining in the application, all of which should now clearly be allowable. Claims 8, 9, 13 and 14 previously have been canceled.

Please note that the enclosed Supplemental Application Data Sheet has been corrected to provide the correspondence customer number, to provide additional attorney contacts, and to reflect the proper format for Application Data Sheets according to ADS Version 5 Revision.

If the Examiner has any questions regarding this amendment, the Examiner is requested to contact the undersigned.

Respectfully submitted



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